

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

HARVEY R. BIALK et al.

Serial No.: 09/851,285

Filed: May 8, 2001

Group Art Unit: 2623

Examiner: Satrarelli, Dominic D.

For: METHOD AND SYSTEM FOR PROVIDING AN EFFICIENT
USE OF BROADBAND NETWORK RESOURCES

Attorney Docket No.: 2001-0148 (ATTB 0104 PUS)

REPLY BRIEF UNDER 37 C.F.R. § 41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is in response to the Examiner's Answer mailed February 6, 2007, for the above-identified patent application. The Examiner's Answer is in response to the Applicant's Appeal Brief mailed November 6, 2006.

The Examiner's Answer did not contain a new ground of rejection. The Applicant requests the appeal be maintained and wishes to file this Reply Brief to address the Examiner's Answer.

Applicant's Reply to (10) Examiner's Response to Argument

Independent claims 1 and 17 differ from any combination of Farry, Opoczynski, Gorman, Dev, and Cutaia for at least two reasons. First, the SDI database stores data indicative of an inventory of CPE which are out of the HFC network, and the OPAL is operable with the database to provision a CPE in the inventory of CPE which are out of the HFC network to be added into the HFC network. Second, the SDI database stores data indicative of the assigned capacity of the HFC network based on the configuration and the connectivity of the network elements and the CPE in the HFC network, and the OPAL is operable with the database to provision network elements in the HFC network with the CPE added into the HFC network based on the assigned capacity of the network elements.

Regarding the first reason, Cutaia does not teach or suggest storing data indicative of an inventory of CPE which are out of the HFC network as claimed because Cutaia is directed to a colocation facility provider having an inventory of service provider equipment located in or out of a colocation facility. The Examiner characterized this argument (page 4 of the Examiner's Answer) as being focused on a distinction between the types of building that a piece of equipment is installed in (i.e., colocation facility vs. subscriber household).

The distinction is between the types and purposes of the equipment (i.e., service provider equipment for enabling service providers to provide telecommunications services to their customers vs. CPE associated with the customers for receiving the telecommunications services from the service providers). As such, an inventory of service provider equipment which are out of a colocation facility is not an inventory of CPE for subscriber households which are out of the HFC network as claimed. Thus, Cutaia does not teach or suggest storing data indicative of an inventory of CPE which are out of the HFC network as claimed. Accordingly, the combination of the cited art does not teach or suggest storing data indicative of an inventory of CPE which are out of a HFC network, and an OPAL operable with the

database to provision a CPE in the inventory of CPE which are out of the HFC network to be added into the HFC network as claimed.

Regarding the second reason, the cited col. 7, lines 16-33 of Farry does not teach or suggest provisioning network elements with CPE added into the HFC network based on the assigned capacity of the network elements as claimed. The Examiner responded (pages 4-5 of the Examiner's Answer) that a virtual circuit is information describing a path through a network that an information stream takes from a service provider to a customer; and that permanent virtual circuits described by Farry are themselves information representative of the assigned capacity of network elements. To this end, the Examiner indicated the availability of predefined permanent virtual circuits is information directly related to the capacity of network elements, because any one network element only supports as many streams as there are permanent virtual circuits that include the network element in the paths they describe, and the number of total permanent virtual circuits represents the operating capacity of the entire network. Thus, the Examiner posited the assignment of a permanent virtual circuit to a CPE is to provision network elements based on their assigned capacity as claimed.

Farry does not teach or suggest the Examiner's position that any one network element only supports as many streams as there are permanent virtual circuits that include the network element in the paths they describe. That is, Farry does not teach away from any one network element supporting as many streams as there are permanent virtual circuits and supporting further streams. As such, the availability of a permanent virtual circuit(s) defining a path(s) which includes a particular network element is not indicative of the assigned capacity of that network element as claimed as that network element has capacity to support the stream(s) defined by the permanent virtual circuit(s) as well as other streams.

Thus, Farry does not teach or suggest provisioning network elements with CPE based on the assigned capacity of the network elements as claimed. Accordingly, the combination of the cited art does not teach or suggest storing data indicative of the assigned

capacity of the HFC network based on the configuration and the connectivity of the network elements and the CPE in the HFC network, and the OPAL being operable with the database to provision network elements in the HFC network with the CPE added into the HFC network based on the assigned capacity of the network elements as claimed.

In view of the foregoing reasons set forth above and in the Appeal Brief, the Applicant respectfully requests that the Board reverse the claim rejections set forth in the final Office Action.

Respectfully submitted,

HARVEY R. BIALK et al.

By: 

James N. Kallis
Registration No. 41,102
Attorney for Applicant

Date: April 4, 2007

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351